



DEPARTMENT OF THE NAVY  
BOARD FOR CORRECTION OF NAVAL RECORDS  
2 NAVY ANNEX  
WASHINGTON DC 20370-5100

TJR  
Docket No: 4716-00  
31 January 2001

[REDACTED]

Dear [REDACTED]

This is in reference to your application for correction of your naval record pursuant to the provisions of Title 10, United States Code, Section 1552.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 17 January 2001. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. Documentary material considered by the Board consisted of your application, together with all material submitted in support thereof, your naval record, and applicable statutes, regulations, and policies.

After careful and conscientious consideration of the entire record, the Board found the evidence submitted was insufficient to establish the existence of probable material error or injustice.

The Board found you enlisted in the Marine Corps on 19 September 1961 at the age of 18. Your record reflects that on 21 May 1962 you received nonjudicial punishment (NJP) for a six day period of unauthorized absence (UA) and were awarded reduction to paygrade E-1. On 27 November 1962 you received NJP for disobedience, disorderly conduct, an unauthorized possession of two liberty cards. The punishment imposed was extra duty for 14 days.

Your record further reflects that on 15 April 1963 you were convicted by civil authorities of unlawfully taking an automobile for temporary use and were sentenced to confinement for 30 days. However, the confinement was suspended.

Subsequently, you were notified of pending administrative separation action by reason of misconduct due to civil conviction. After consulting with legal counsel you elected your right to present your case to an administrative discharge board (ADB). Your immediate commanding officer recommended that you be retained in the Marine Corps because there was no record of prior civil or military convictions, leniency of the sentence by civil

authorities, and the fact that the two NJP you received did not involve moral turpitude. However, this recommendation was later disapproved by a higher level and, on 29 May 1963, an ADB recommended you be separated by reason of misconduct. The discharge authority approved the recommendation of the ADB and directed an undesirable discharge by reason of misconduct due to civil conviction, and on 7 June 1963 you were so discharged.

The Board, in its review of your entire record and application, carefully weighed all potentially mitigating factors, such as your youth and immaturity and the recommendation of your immediate commanding officer. The Board further considered your contentions that it has been over 37 years since you were discharged, you did not have an opportunity to defend yourself because you were not afforded a court-martial, and that your discharge was premature and illegal. However, the Board concluded these factors and contentions were not sufficient to warrant recharacterization of your discharge given your misconduct in both the military and civilian communities. Given all the circumstances of your case, the Board concluded your discharge was proper as issued and no change is warranted. Further, the Board noted that there is no evidence in the record, and you provided none, to support your contentions. Also, note that no discharge is upgraded merely because of the passage of time. Accordingly, your application has been denied.

The names and votes of the members of the panel will be furnished upon request.

It is regretted that the circumstances of your case are such that favorable action cannot be taken. You are entitled to have the Board reconsider its decision upon submission of new and material evidence or other matter not previously considered by the Board. In this regard, it is important to keep in mind that a presumption of regularity attaches to all official records. Consequently, when applying for a correction of an official naval record, the burden is on the applicant to demonstrate the existence of probable material error or injustice.

Sincerely,

W. DEAN PFEIFFER  
Executive Director